

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

CHESTER RAY WILLIAMS,

Petitioner,

v.

CIVIL ACTION NO. 5:10-cv-0251

UNITED STATES OF AMERICA,

Respondent.

**MEMORANDUM OPINION AND ORDER ADOPTING PROPOSED FINDINGS AND
RECOMMENDATION**


The Court has reviewed the Petitioner's Petition for Immediate Relief from Illegal Incarceration Under Habeas Corpus, Pursuant to 28 U.S.C. § 2243 (Document No. 1), Notice of Overturn and Request for Relief (Document No. 2) and Application to Proceed Without Prepayment of Fees and Costs (Document No. 6). By Standing Order (Document No. 3) entered in this case on March 8, 2010, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On April 16, 2010, the Magistrate Judge submitted *Proposed Findings and Recommendation* (Document No. 8) wherein it is recommended that this Court deny Petitioner's Application to Proceed In Forma Pauperis (Document No. 6), dismiss Petitioner's Petition for Writ of Habeas Corpus by a Person in Federal Custody Pursuant to 28 U.S.C. § 2241 (Document No. 1)¹ and REMOVE this matter from the Court's docket

¹ The Magistrate considered Petitioner's pleading pursuant to 28 U.S.C. § 2241. (*See Proposed Finding and*
(continued...)

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and Petitioner's right to appeal this Court's order. See *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge VanDervort's PF&R were due by May 3, 2010.

To date, Petitioner has not submitted any objections or sought to prosecute this matter further.² Thus, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the Proposed Findings and Recommendation, and **ORDERS** that Petitioner's Petition for Immediate Relief from Illegal Incarceration Under Habeas Corpus, Pursuant to 28 U.S.C. § 2243 (Document No. 1) be **DISMISSED** and that this action be **REMOVED** from the docket of this Court. A separate Judgment Order will enter this day implementing the rulings contained herein. The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: October 4, 2010


IRENE C. BERGER, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

¹(...continued)
Recommendation at 2, n.1.)

² The Court observes that the Clerk of Court has attempted on two occasions to provide Petitioner with a copy of the PF&R, however, each mailing was returned as undeliverable. The Court finds that Petitioner has been released from the custody of the Bureau of Prisons and he has not provided the Court with an updated address.